

**Natarajan a/l K Maniam v
Dato' Chor Chee Heung & Anor**

HIGH COURT (JOHOR BAHRU) — CRIMINAL APPEAL NO 44-09 OF
2001(1)
SYED AHMAD HELMY JC
22 MAY 2002

Criminal Procedure — *Habeas corpus* — *Preventive detention* — *Whether grounds of detention order vague and insufficient* — *Whether grounds of detention abrogates applicant's right to make representations* — *Dangerous Drugs (Special Preventive Measures) Act 1985 ss 6(1) and 9*

This was an application made under ss 6(1) and 9 of the Dangerous Drugs (Special Preventive Measures) Act 1985 ('the Act'), Chapter XXVI of the Criminal Procedure Code (Revised 1999) (Act 593) and art 5(1), (2) and (3) of the Federal Constitution for an order that a writ of habeas corpus be issued to direct the respondent to produce the applicant before the court and to show cause as to why the applicant should not be set at liberty. The applicant's challenge to the detention order was on two grounds: (i) the allegations of facts appearing in the grounds upon which the detention order was made were vague and insufficient which severely prejudiced the applicant in the exercise of his right to make the representations accorded under s 9 of the Act and consequently invalidating the detention order; and (ii) the detention order is mechanical in nature, there being an inconsistency between the ground of detention as adhered to by the deputy minister under whose hand the order was made and that of the assistant secretary, under whose hand the ground and allegations of facts were based.

Held:

- (1) A detention order is not illegal simply because the allegations of facts supplied are vague, insufficient or irrelevant; *Karam Singh v Menteri Hal Ehwal Dalam Negeri Malaysia* [1969] 2 MLJ 129 followed. The deletion of the 14-day period now imposes immediate obligation on the part of the minister to furnish the statement as prescribed by s 9(2)(b)(i), (ii) and (iii) of the Act which section is similarly worded with the post amended s 11 of the Internal Security Act 1960 ('the ISA'). It does not in any way abrogates the right of the detenu to request for particulars as that right is still preserved by s 9(2)(b)(iii) thereof. In point of fact, by the deletion of the 14-day period, the detenu is now given flexibility of time to request for particulars at any time, not limited to 14 days to request for particulars to enable him to make representation to the advisory board (see pp 525E-F, 527E-F).
- (2) The Federal Court in *Karam Singh v Menteri Hal Ehwal Dalam Negeri Malaysia* in construing s 11(2)(b)(iii) of the ISA established the right of the detenu for additional particulars if

- A** the detenu is of the view that the vagueness, insufficiency or irrelevancy of the allegations of fact has handicapped him from making adequate representations. Such a right is also available to the detenu herein under ss 6(1) and 9 of the Act (see p 528A).
- B** (3) Under the provisions of the Act, there is only one limb that the detaining authority has to be subjectively satisfied namely that the detenu was involved in activities relating to dangerous drugs. This requirement is much lesser in degree than the three limb requirement of acting in a manner prejudicial to the security, maintenance of public order and maintenance of essential services under the ISA. By reason of the lesser degree of subjective satisfaction and upon scrutinizing the three grounds as laid out in the grounds of detention, the court was of the view that the minister had appropriately addressed his subjective mind to the definitive requirement of the dangerous drugs activities of the detenu and hence far from being vague, it became definite in nature (see p 528C-E).
- C**
- D**

[Bahasa Malaysia summary]

- E** Ini adalah satu permohonan yang dibuat di bawah ss 6(1) dan 9 Akta Dadah Berbahaya (Langkah-Langkah Pencegahan Khas) 1985 ('Akta tersebut'), Bab XXVI Kanun Acara Jenayah (Disemak 1999) (Akta 593) dan perkara 5(1), (2) dan (3) Perlembagaan Persekutuan untuk satu perintah bahawa satu habeas corpus dikeluarkan untuk mengarahkan responden mengemukakan pemohon di hadapan mahkamah dan menunjukkan sebab kenapa pemohon tidak patut dibebaskan. Pemohon mencabar perintah penahanan tersebut atas dua alasan: (i) pengataan-pengataan fakta yang terdapat dalam alasan-alasan di mana perintah penahanan dibuat adalah tidak jelas dan tidak mencukupi yang mana telah memprejudiskan pemohon dalam melaksanakan hak beliau untuk membuat representasi-representasi sebagaimana yang diperuntukkan di bawah s 9 Akta tersebut dan mengakibatkan perintah penahanan tersebut menjadi tidak sah; dan (ii) perintah penahanan tersebut adalah bersifat mekanikal, di mana alasan penahanan yang diberi oleh timbalan menteri yang mana beliau telah membenarkan perintah tersebut dibuat adalah tidak konsisten dengan alasan penolong setiausaha, di mana alasan dan pengataan-pengataan fakta-fakta diasaskan.
- F**
- G**
- H**

Diputuskan:

- I** (1) Satu perintah penahanan tidak dianggap menyalahi undang-undang hanya kerana pengataan fakta-fakta yang dibekalkan adalah tidak jelas, tidak mencukupi atau tidak relevan; *Karam Singh v Menteri Hal Ehwal Dalam Negeri Malaysia* [1969] 2 MLJ 129 diikuti. Pemotongan tempoh 14 hari telah mewujudkan

tanggungjawab serta merta ke atas menteri untuk mengemukakan pernyataan sebagaimana yang dituntut oleh s 9(2)(b)(i), (ii) dan (iii) Akta tersebut di mana seksyen tersebut adalah serupa peruntukannya dengan s 11 Akta Keselamatan Dalam Negeri 1960 ('AKDN') selepas pindaan. Ia tidak dalam apa carapun membatalkan hak detinu untuk memohon butir-butir tersebut kerana hak tersebut masih dikawal oleh s 9(2)(b)(iii). Sebenarnya, dengan memotong tempoh 14 hari tersebut, detinu sekarang diberikan kelonggaran masa untuk memohon butir-butir tersebut pada bila-bila masa, tidak terbatas kepada 14 hari, untuk memohon butir-butir tersebut bagi membolehkan beliau membuat representasi kepada lembaga penasihat (lihat ms 525E–F, 527E–F).

(2) Mahkamah Persekutuan dalam *Karam Singh v Menteri Hal Ehwal Dalam Negeri Malaysia* tatkala menghuraikan s 11(2)(b)(iii) AKDN telah menyatakan hak bagi detinu untuk mendapatkan butir-butir tambahan sekiranya detinu tersebut berpendapat pengatahan-pengatahan fakta yang tidak jelas, tidak mencukupi atau tidak relevan tersebut menjejaskan beliau daripada membuat representasi-representasi yang memadai. Hak sedemikian juga wujud kepada detinu di bawah ss 6(1) dan 9 Akta tersebut (lihat ms 528A).

(3) Di bawah peruntukan-peruntukan Akta tersebut, hanya terdapat satu cabang di mana pihak berkuasa yang membuat penahanan harus berpuas hati secara subjektif terutamanya bahawa detinu telah terlibat dalam kegiatan-kegiatan berkaitan dengan dadah berbahaya. Keperluan ini mempunyai tahap yang lebih rendah daripada keperluan ketiga-tiga cabang di bawah AKDN, iaitu bertindak secara prejudis kepada keselamatan, kawalan ketenteraman awam dan kawalan perkhidmatan-perkhidmatan yang penting. Oleh kerana tahap kepuasan subjektif yang lebih rendah dan setelah meneliti ketiga-tiga alasan yang dinyatakan dalam alasan-alasan penahanan tersebut, mahkamah berpendapat bahawa menteri telah mengutarakan buah fikiran beliau secara subjektif dengan betul mengenai keperluan paling sahih tentang kegiatan-kegiatan dadah berbahaya detinu dan justeru itu, ia lebih bersifat pasti daripada tidak jelas (lihat ms 528C–E).]

Notes

For cases on preventive detention, see 5 *Mallal's Digest* (4th Ed, 2001 Reissue) paras 1778–1793.

Cases referred to

Karam Singh v Menteri Hal Ehwal Dalam Negeri Malaysia [1969] 2 MLJ 129 (refd)

Sri Niwas Agarwala v State of Uttar Pradesh (1983) Cri LJ 21 (refd)

Vinod Kumar v District Magistrate, Indore (1986) Cr LJ 15 (refd)

A Legislation referred to

Criminal Procedure Code (Revised 1999) (Act 593) Chapter XXVI
 Dangerous Drugs (Special Preventive Measures) Act 1985 ss 6(1),
 9(2)(b)(i), (ii), (iii), 11(2)(a), (b)(i), (ii), (iii)
 Federal Constitution art 5(1), (2), (3)

B Internal Security Act 1960 s 11(1), (2)(b)(iii)

Gobind Singh Deo (Zamri Idrus with him) (Karpal Singh & Co) for the applicant.

Abdul Rani (Senior Federal Counsel, Ministry of Home Affairs) for the respondents.

C Syed Ahmad Helmy JC: This is an application made under ss 6(1) and 9 of the Dangerous Drugs (Special Preventive Measures) Act 1985 ('the Act'), Chapter XXVI of the Criminal Procedure Code (Revised 1999) (Act 593) and art 5(1), (2) and (3) of the Federal Constitution ('the Constitution') for an order that a writ of habeas corpus be issued to direct the respondent to produce the applicant before this court and to show cause as to why the applicant should not be set at liberty forthwith on the grounds shown in the affidavit filed in support thereof.

The applicant was detained pursuant to an order dated 5 February 2001 made under s 6(1) of the Act. The detention order and the grounds thereof are reproduced hereunder:

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AKTA DADAH BERBAHAYA
 (LANGKAH-LANGKAH PENCEGAHAN KHAS) 1985
 PERINTAH TAHANAN
[Seksyen 6(1)]

Kepada:

F

Pegawai Yang Menjaga Pusat Pemulihan Akhlak, Simpang Renggam,
 Johor,
 Ketua Polis Negara, Malaysia;
 Semua Pegawai Polis Diraja Malaysia yang berkenaan.

G

BAHAWASANYA selepas menimbangkan laporan lengkap penyiasatan dan laporan Pegawai Siasatan yang dikemukakan, saya adalah berpuashati bahawa orang yang namanya tersebut di bawah pernah ada atau sedang ada kaitan dengan aktiviti yang berhubungan dengan atau yang melibatkan pengedaran dadah berbahaya.

Nama	Nombor Kad Pengenalan
H Natarajan a/l K Maniam	640123-07-3483

I

MAKA, OLEH YANG DEMIKIAN, pada menjalankan kuasa yang diberi di bawah Seksyen 6(1) Akta Dadah Berbahaya (Langkah-Langkah Pencegahan Khas) 1985, saya dengan ini memerintahkan supaya orang yang namanya tersebut di atas ditahan selama dua (2) tahun mulai dari 5 haribulan Februari 2001 di Pusat Pemulihan Akhlak, Simpang Renggam, Johor atau di mana-mana tempat lain sebagaimana yang diarah dari semasa ke semasa.

Diperbuat pada 5 haribulan Februari 2001.

A

(DATO' CHOR CHEE HEUNG)
TIMBALAN MENTERI DALAM NEGERI
MALAYSIA

[ADB -12457]

Saya C/INSP BALACHANDRAN A/L ANAMALAI I/13210 yang bertandatangan di bawah memperakui bahawa saya pada hari ini 5 haribulan FEBRUARI 2001 jam 11.50 xxxx/xxxxx/malam* telah menyampaikan kepada NATARAJAN A/L K MANIAM No Kad Pengenalan 640125-07-5483:

B

- (a) satu salinan Perintah Tahanan di bawah Seksyen 6(1) Akta Dadah Berbahaya (Langkah-Langkah Pencegahan Khas) 1985;
- (b) satu salinan pernyataan mengenai alasan-alasan yang atasnya perintah itu dibuat dan pengataatan-pengataatan fakta yang atasnya Perintah itu diasaskan;
- (c) tiga salinan Borang I [Kaedah-Kaedah Dadah Berbahaya (Langkah-Langkah Pencegahan Khas) (Prosedur Lembaga Penasihat 1987)] untuk membolehkannya mengemukakan representasi terhadap Perintah Tahanan kepada Pengerusi Lembaga Penasihat yang ditubuhkan di bawah perkara 151 Perlembagaan Persekutuan;

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dan telah menerangkan kepada orang tahanan tersebut mengenai haknya untuk membuat representasi terhadap Perintah Tahanan itu.

Tandatangan

E

Nama dan Pangkat BALACHANDRAN A/L ANAMALAI C/INSP

Jawatan PEGAWAI PENYIASAT NARKOTIK SPU

Isi kandungan butiran (a) hingga (c) dan penerangan yang tersebut di atas telah diterangkan kepada orang tahanan semasa penyampaian dilakukan dalam bahasa/loghat* TAMIL oleh:

F

Tandatangan

Nama dan Jurubahasa: BALACHANDRAN A/L ANAMALAI

No Kad Pengenalan/Kad Kuasa I/ 13210

Saya NATARAJAN A/L K MANIAM No Kad Pengenalan 640125-07-5483 mengaku telah menerima semua dokumen yang tersebut di butiran (a) hingga (c) di atas pada 5 haribulan FEBRUARI 2001 dan telah faham isi kandungannya serta faham mengenai hak saya untuk membuat representasi terhadap Perintah Tahanan itu.

G

Tandatangan

Nama NATARAJAN A/L K MANIAM

No Kad Pengenalan 640125-07-5483

H

AKTA DADAH BERBAHAYA (LANGKAH-LANGKAH
PENCEGAHAN KHAS) 1985

NAMA ORANG TAHANAN NATARAJAN A/L K MANIAM
No K/P: 640125-07-5483

I

ALASAN-ALASAN YANG ATASNYA PERINTAH ITU DIBUAT:

A Bahawa kamu pernah ada kaitan dengan apa-apa aktiviti yang berhubungan dengan atau yang melibatkan pengedaran dadah berbahaya.

TUDUHAN-TUDUHAN YANG ATASNYA PERINTAH ITU
DIASASKAN:

- B** 1 Bahawa kamu adalah seorang pengedar dadah jenis ganja dan heroin yang bergiat di kawasan Mak Mandin, Butterworth, kawasan Bukit Tengah, Taman Pelangi dan Taman Sukun, Bukit Mertajam, Pulau Pinang.
- 2 Bahawa kamu sejak tahun 1980 hingga tahun 1985 telah mengedar ganja dalam bentuk kilogram dengan harga RM1,000 sekilogram.
- C** 3 Bahawa kamu sejak tahun 1980 hingga bulan Disember 2000, telah mengedar heroin dalam bentuk peket dengan harga antara RM50 hingga RM280 sepeket dan bekalan heroin tersebut kamu perolehi dengan harga RM220 sepeket.

Dengan Arahan,
Timbalan Menteri Dalam Negeri

5 Februari 2001

D (MOHAMAMAD RAZIN BIN ABDULLAH)
Penolong Setiausaha
Kementerian Dalam Negeri

(ADB - 12457)

Section 6(1) of the Act reads as follows:

E Power to order detention and restriction of persons

*(1) Whenever the Minister, after considering:

- (a) the complete report of investigation submitted under subsection (3) of section 3; and
- (b) the report of the Inquiry Officer submitted under subsection (4) of section 5,

F is satisfied with respect to any person that such person has been or is associated with any activity relating to or involving the trafficking in dangerous drugs, the Minister may, if he is satisfied that it is necessary in the interest of public order that such person be detained, by order (hereinafter referred to as a 'detention order') direct that such person be detained for a period not exceeding two years.

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*(1) Where a detention order was made under subsection (1) of section 6 of the principal Act against any person during the period between the date of the commencement of the principal Act and the commencement of this Act (hereinafter referred to as 'the transitional period'), the detention order and the detention effected in pursuance thereof during the transitional period, and its continuation thereafter, if any, are hereby declared lawful and valid, and shall be deemed to be, and to have always and at all times been, lawful and valid, notwithstanding that at any time during the duration of the detention order he was detained at any place other than the place of detention referred to in subsection (2) of the said section 6, or continued to be detained in the place in which he was detained under section 3 of the principal Act after the expiry of the maximum period provided therefore under subsection (2) of the said section 3, or was on journey in police custody or any other custody to the place of detention as aforesaid, or that there was any delay in the service of the detention order on him, or that it was served on him at any place other than

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the place of detention, or that there was any defect relating to its service upon him.

A

The applicant's challenge to the detention order is on two grounds: (i) the allegations of facts appearing in the grounds upon which the detention order was made were vague and insufficient which severely prejudices the applicant in the exercise of his right to make the representations accorded under s 9 of the Act and consequently invalidating the detention order; and (ii) the detention order is mechanical in nature, there being an inconsistency between the ground of detention as adhered to by the deputy minister under whose hand the order is made and that of the assistant secretary, under whose hand the ground and allegations of facts are based.

B

In respect of the first ground, it is the applicant's case that the right to make representations to the advisory board being a constitutional guard under art 5 of the Constitution is a fundamental right which must be effectively afforded to a detenu, and to enable him to make the necessary representation he must know precisely the allegations of fact in the grounds upon which the detention order was made. If there is failure on the part of the detaining authority to meticulously comply with the provisions in respect of detention, which includes giving the detainee an effective opportunity to make representations against his detention, the detention order is bad.

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That the detention of the applicant is made in the exercise of a valid legal power conferred by statute, namely the Act, is not in dispute. Hence, the onus lies on the applicant to show that the exercise of such a power by the respondent was done mala fide or improperly.

E

Mala fide exercise of the power conferred arises where the grounds upon which the order is based are not proper or relevant grounds to justify detention under the provision of the law or when the authority in making the order did not apply his mind to it or made it for a purpose other than that mentioned in the detention order.

F

It should be emphasized that in approaching the issue of mala fides the court must not be oblivious that observations made in one case cannot be regarded as precedent in other cases. In short, it has to be decided in reference to the facts of each particular case.

G

In advancing the vagueness argument, learned counsel for the applicant referred to two Indian cases, namely, *Vinod Kumar v District Magistrate, Indore* (1986) Cri LJ 151 and *Sri Niwas Agarwala v State of Uttar Pradesh* (1983) Cr LJ 21.

H

In *Vinod Kumar v District Magistrate, Indore*, the ground of detention was that the detenu indulged in profiteering by selling Sagol and Murram powder as cement to the general and illiterate public through the medium of unsocial elements who were carrying on illegal trade in cement. The names and other particulars of the unsocial elements through whom the detenu was indulging in the sale of Sagol and Murram powder as cement were not stated. The particulars of the person or persons to whom Sagol and Murram powder as cement was sold were also not stated. The price at

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- A which the Sagol and Murram powder was being sold by the detenu were also not stated. Not a single instance was cited in which the Sagol and Murram powder produced by the detenu was sold. It was held that the allegation in the ground of detention regarding sale of Sagol and Murram powder as cement was too vague and it appeared that a generalization was made by the detaining authority without any material. The order of detention passed by the detaining authority was quashed.

In *Sri Niwas Agarwala v State of Uttar Pradesh*, the ground of detention was based on the habit of the detenu in indulging in black marketing but only one instance was referred to. The court held that the ground pertaining to the detenu's alleged habit was vague in as much as it does not contain any particulars and hence quashed the order of detention.

- C It is appropriate at this juncture to highlight the highly salient difference between the preventive detention legislation of India and the preventive legislation in Malaysia — whereas the powers of detention is exercisable by civil servants, district, magistrates, sub-divisional, magistrates and commissioner's of police in India. Here, in Malaysia, the powers of detention is only conferred on the Minister for Home Affairs. The difference to my mind is the rationale behind the Indian court readiness to intervene and hence more closely scrutinized by the courts. The other differentiating aspect is that in India, the detention, in order to be lawful must be in accordance with procedure established by law unlike in Malaysia where it must be in accordance with the law.

- D It is because of the differentiating aspects between the Malaysian and Indian legislation that our Federal Court in the case of *Karam Singh v Menteri Hal Ehwal Dalam Negeri Malaysia* [1969] 2 MLJ 129 adopted the subjective test in approaching the question of judicial review and held that a detention order under s 8 of the Internal Security Act 1960 ('the ISA') is not rendered illegal simply because the allegation of facts supplied pursuant to s 11 of the ISA are vague, insufficient or irrelevant.

The learned judge, Sufian FJ, at para D expressed the position in the following manner at p 150:

- G In my judgment, detention under an order of the minister made under s 8 of the Internal Security Act 1960 is not illegal simply because the allegations of fact supplied to him in pursuance to art 151(1)(a) and s 11 of the Act are vague insufficient or irrelevant ... In this matter, with respect I agree with the reasoning of the minority judgment ... by Sastri J in *Atma Ram* AIR 1951 SC 157 that when the power to issue a detention order has been made to depend on the existence of a state of mind in the detaining authority, which is purely a subjective condition, so as to exclude a judicial inquiry into the sufficiency of the grounds to justify the detention, it would be wholly inconsistent to hold that it is open to the court to examine the sufficiency of the same grounds to enable the person detained to make a representation.

- I Learned counsel for the applicant, Mr Gobind Singh Deo, urges this court to exclude the principle established in *Karam Singh* as the facts therein is not only distinguishable but turned on the construction of a provision which has since been amended.

A proper scrutiny of *Karam Singh* shows that it was decided based on a construction of the pre-amended s 11 of the Internal Security Act 1960 ('the ISA') which reads:

- (1) A copy of every order made by the Minister under section 8(1) shall as soon as may be after the making thereof be served on the person to whom it relates, and every such person shall be entitled to make representations against the order to an Advisory Board.
- (2) For the purpose of enabling a person to make representation under subsection (1) he shall, at the time of the service on him of the order —
 - (a) be informed of his right to make representations to an advisory board under subsection (1); and
 - (b) be furnished by the Minister with a statement in writing —
 - (i) of the grounds on which the order is made;
 - (ii) of the allegations of fact on which the order is based; and
 - (iii) of such other particulars, if any, as he may in the opinion of the Minister reasonably require an order to make his representations against the order to the Advisory Board.

Suffian FJ in construing the said section came to the conclusion that the wording of the said section and in particular to s 11(2)(b)(iii) of the ISA thereof provides for recourse by the applicant to additional particulars from the detaining authority if there is vagueness, insufficiency or irrelevancy in the allegations of fact on which the detention order was based.

It should be observed that s 11(2) of the ISA has been amended and the words 'fourteen days' has been deleted with the consequent result that the minister is now obligated to inform the applicant and furnish him with the information and statement as prescribed by sub-rr (a) and (b)(i), (ii) and (iii) at the time of service of the detention order.

It is the applicant's counsel contention that by reason of the deletion thereof and the obligation imposed on the minister to supply him with the grounds, allegations of fact and particulars at the point of service of the detention order, his right to request particulars within 14 days has been extinguished.

Hence, by the amendment in the form of the deletion aforesaid, the basis of the learned judge's decision regarding the recourse of the detenu for particulars in the face of vagueness of the allegations of facts would now not be applicable. This is because of the obvious reason that the amendment has clearly imposed on the detaining authority upon service of the detention order, the statutory duty of informing the detenu his right to make representations to the advisory board and also the furnishment of the grounds, the allegations of fact and such other particulars as the detenu may require to make his representations. He concludes his submission by contending that the statutory right to particulars of the detenu is now no longer available by reason of amendment.

It should be borne in mind that the wording of s 9(2)(b)(iii) of the Act which is the governing Act under which the applicant herein is detained is similar to the post amended provision of s 11 of the ISA wherein the

A statutory duty imposed on the Minister to furnish particulars is only at the time of service of the detention order.

The question thus arises whether the exclusion of the 14-day period in s 9(2) of the Act extinguishes a detenu's right to particulars.

Section 9 of the Act reads as follows:

- B** Representations against detention order
- (1) A copy of every order made by the Minister under subsection (1) of section 6 shall as soon as may be after the making thereof be served on the person to whom it relates, and every such person shall be entitled to make representations to an Advisory Board.
- C** (2) For the purpose of enabling a person to make representations under subsection (1) he shall, at the time of the service on him of the order —
- (a) be informed of his right to make representations to an Advisory Board under subsection (1); and
- (b) be furnished by the Minister with a statement in writing —
- D** (i) of the grounds on which the order is made;
- (ii) of the allegations of fact on which the order is based; and
- (iii) of such other particulars, if any, he may in the opinion of the Minister reasonably require in order to make his representations against the order to the Advisory Board.

E My reading of the post-amended s 11(1) of ISA and the prevailing s 9(2)(b)(iii) of Act does not in any way curtail the detenu's right to particulars.

F The deletion of the 14-day period now imposes an immediate obligation on the part of the minister to furnish the statement as prescribed by s 9(2)(b)(i), (ii) and (iii) of the Act which section is similarly worded with the post amended s 11 of the ISA. It does not in any way abrogates the right of the detenu to request for particulars as that right is still preserved by s 9(2)(b)(iii) thereof. In point of fact, by the deletion of the 14-day period, the detenu is now given flexibility of time to request for particulars at any time, not limited to 14 days, to request for particulars to enable him to make representation to the advisory board. It is pertinent to note that there is no specified period for representations to be made and as such the detenu's right to particulars extends to such period until the detenu exercises his right to make representations. Hence, far from restricting the detenu's right to particulars, the deletion of the 14-day period has enhanced the detenu's right to particulars and invariably reinforces the principle established in *Karam Singh*.

H The right to make representation has never been abrogated, and the right to particulars remains and hence the submission by learned counsel for the applicant must fail.

I It should be emphasized that in the case at hand the detenu did make representations to the advisory board and there were no suggestions then that the averments made in the grounds of detention were vague or insufficient, nor was there any application made by the detenu for any further particulars of the vague averments as contended.

The Federal Court in construing s 11(2)(b)(iii) of the ISA established the right of the detenu for additional particulars if the detenu is of the view that the vagueness, insufficiency or irrelevancy of the allegations of fact has handicapped him from making adequate representations and I am of the view that such a right is also available to the detenu herein under ss 6(1) and 9 of the Act.

The second ground upon which the detention order is challenged is premised on applicant's counsel's contention that by reason of the inconsistency in the detention order signed by the Deputy Minister for Home Affairs and the grounds signed by the Assistant Secretary of the Home Affairs Ministry in that the words 'sedang ada' appearing in the detention order is not present in the grounds, the deputy minister mechanically signed the detention order and hence it is bad in law and ought to be quashed.

It is also appropriate to emphasize that under the provisions of the Act, there is only one limb that the detaining authority has to be subjectively satisfied namely that the detenu was involved in activities relating to dangerous drugs which requirement is much lesser in degree than the three limb requirement of acting in a manner prejudicial to the security, maintenance of public order and maintenance of essential services under the ISA.

By reason of the lesser degree of subjective satisfaction and upon scrutinizing the three grounds as laid out in the grounds of detention, it is my considered view that the minister had appropriately addressed his subjective mind to the definitive requirement of the dangerous drugs activities of the detenu and hence far from being vague it becomes definite in nature.

For the reasons adumbrated above, I dismissed the applicant's application for habeas corpus.

Order accordingly.

Reported by Peter Ling

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